IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No. 1069 of 1992
Date of decision : 15.11.2006.

State of Punjab & Anr.

.....Petitioners.

Versus

Nirmal Singh & Anr.

.....Respondents.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.H.S. Gill, DAG, Punjab.

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VINOD K. SHARMA,J.(ORAL)

Present appeal has been filed against the judgment passed by the learned Motor Accident Claims Tribunal, Ropar vide which the claimants have been granted compensation to the tune of Rs. one lakh for the injuries suffered by him in a motor vehicle accident.

The case set up by the claimant-respondent was that on 6.6.1989 at about 9 a.m. the claimant was coming from Sirhind to village Boor Majra on a scooter No. PAL-4040. He was going at a normal speed on the left hand side of the road. When he reached near village Doomchheri, a jeep bearing No.PBW-1464 being driven by Mehar Singh respondent rashly and negligently came and struck against the scooter. He sustained multiple injuries on his person. It was claimed that accident had taken place because of the rash and negligent driving of the jeep by Mehar Singh respondent. He was got treated in P.G.I., Chandigarh, Civil Hospital Ropar and G.M.C. Ludhiana and he spent Rs. 30,000/- on his medical treatment.

Appellants-respondents No. 1 & 3 filed a joint written statement denying the version of the claimant. The stand taken by respondents No. 1 & 3 was that respondent No.2 on the day of alleged accident was not driving the jeep in question but the same was driven by Sh. R.K. Verma. It was further averred that on 5.6.1989 the jeep was taken from Ropar to Mohali and then to Chandigarh. On 5.6.1989 the jeep remained at Chandigarh and on 6.6.1989 it was taken from Chandigarh to Mohali and, therefore, the involvement of jeep in question was denied.

The respondent No.2 by way of separate written statement controverted the allegations and he has taken the plea that the jeep was neither involved in the accident nor it was driven by him. According to him, on the date of accident, the jeep was driven by Sh. R.K. Verma and not by him. It was also alleged that on 5.6.1989 the jeep was taken from Ropar to Mohali and Chandigarh and then after staying for the night at Chandigarh, it was driven to Mohali from Chandigarh by Mr. R.K. Verma.

Thus, on the pleadings of the parties, following issues were framed :-

1. Whether the claimant sustained injuries in a motor vehicular accident caused due to rash and negligent driving of respondent No.2 in driving Jeep No. PBW-1464? OPP

2. If issue No.1 is proved, to what amount of compensation, claimant is entitled and from whom ? OPP

3. Relief.

The learned Tribunal on issue No.1, on appreciation of evidence, came to the conclusion that the claimant respondent received injuries in a motor vehicular accident caused due to rash and negligent driving of respondent No.2 in driving jeep No. PBW-1464. In support of their contention on issue No.1 the State had produced on record the Log Book showing the entries to the effect that on 5.6.1989 the jeep was taken from S.A.S. Nagar to Chandigarh and back. However, the distance covered was shown to be 90 K.M. Therefore, the learned Tribunal came to the conclusion that distance from Ropar to Mohali and Chandigarh cannot be taken to be 90 K.M. The Log Book again disclosed that on 6.6.1989 entry was made to the effect that the jeep was taken from S.A.S. Nagar to Chandigarh and then back and distance covered was shown to be 160 K.M. Thus, the entries in the log book are in sharp contrast to the plea taken by the respondents and as such it was not accepted. The learned Tribunal also disbelieved the story of jeep being driven by Sh. R.K. Verma on the ground that he did not appear in the witness box.

The same contentions were raised by Sh. H.S. Gill, D.A.G. Punjab in support of this appeal. However, nothing has been shown as to how the finding recorded by the learned Tribunal on issue No.1 is wrong or vitiated on appreciation of evidence produced before the learned Tribunal. Accordingly, there is no reason to discard the findings recorded by the learned Tribunal on issue No.1 and the same are hereby affirmed.

On issue No.2 the learned Tribunal keeping in view the injuries suffered and the treatment undertaken by the claimant have granted a compensation of Rs. one lakh on all counts. The learned counsel for the appellant contends that the disability of 40% was merely temporary and,

therefore, the amount awarded cannot be sustained. However, the reading of the judgment of the Tribunal shows that the Tribunal has taken this fact into consideration that the injury suffered by claimant was not of permanent nature but keeping in view the injuries and the medical expenses incurred on the treatment the learned Tribunal granted a sum of Rs. one lakh which cannot be said to be excessive in any way, which may call for any interference by this Court.

Dismissed.

15.11.2006 **(VINOD K. SHARMA)**
'sp' **JUDGE**